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OFFICE OF PETITIONS

In re Application of
Percy Heger et al.
Application No. 10/656,353
Filed: September 5, 2003
Attorney Docket No. A35976

ON PETITION

This is a decision on the petition filed October 18, 2006 and resubmitted March 21, 2007, to withdraw the holding of abandonment, which is treated under 37 CFR 1.181(b), in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition is **GRANTED**.

This application became abandoned for failure to pay the issue fee on or before September 6, 2006 as was required by the Notice of Allowance mailed June 6, 2006. This application therefore became abandoned on September 7, 2006. Accordingly, a Notice of Abandonment was mailed October 9, 2006.

The file record discloses that the Notice of Allowance was mailed to the address of record, the same address to which the Notice of Abandonment was mailed and received by the petitioner. However, petitioner contends that the Notice of Allowance was not received. In support, petitioner indicates that a search of the file jacket revealed that the Notice was not received and submits copies of pages from the docketing system, wherein receipt of the Notice would have been entered, had it been received to substantiate the claim. The statement and attachments corroborate non-receipt of the Notice of Allowance.

In view of the facts set forth in the petition, it is concluded that the Notice of Allowance was never received. Accordingly, the holding of abandonment is withdrawn. No petition fee is due and none will be charged.

This application is being forwarded to the Technology Center 1765 for a remailing of the Notice of Allowance and Notice of Allowability.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions